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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/604,360

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Yechezkal Evan Spero

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10/17/2006

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EXAMINER

TRUONG, BAO Q

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 10/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/604,360	Applicant(s) SPERO, YECHEZKAL EVAN	
	Examiner Bao Q. Truong	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-49 is/are pending in the application.
- 4a) Of the above claim(s) 38 and 39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36,37 and 40-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 38 and 39 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the optimal illuminance level is uniform illumination over the surfaces at a certain height within the living space whether the surface is directly below the illuminating device or off in a distant corner of claim 38, and the optimal illuminance is increased task lighting illuminance in a certain area of the living space and general lighting illuminance level over the rest of the area of claim 39 are not shown in the Species I of figure 1; or a proposed combined Species I, II and III by the applicant (see restriction requirement on 12/14/2004 and the respond to the restriction on 1/13/2005).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 38 and 39 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Objections

2. Claims 36, 37 and 44-45 are objected to because of the following informalities:

Claim 36, there is lack of antecedent basis for "the greater and lesser concentration" in line 17.

Claim 37, limitations a, b, c, d are repeated; there is lack of antecedent basis for "the greater and lesser concentration" in line 22.

Claim 44, there is lack of antecedent basis for "said independent light sources" in line 7, for "the mounting" in line 10, and "said lighting requirements" in line 14.

Claim 45, all elements in claim "Markush Group" type should be equivalent. For example, there are different categories of "a power supply" and "a controller" and "a storage media".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 42 and 44-46 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claims 42 and 44 are narrative in form and replete with indefinite and functional or operational language. The structure, which goes to make up the device, must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Claims 45 and 46 are necessary included because of their dependency.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 36, 37, 40-45 and 47-49 are rejected under 35 U.S.C. 102(e) as being anticipated by Vukosic [US 6,483,439].

Regarding claims 36, 37 and 47-49, Vukosic discloses a multiple light source illuminating device [see figure 1] having a first light source [16] with a color spectral distribution and intensity, an illuminating device structure [14, 12, 17] with oriented geometry and surfaces, a plurality of additional light sources [16, 18] with their color and intensity distribution, and whereby a concentration of the light sources [16, 18] at particular orientations [side directions] and aimings on the surface of the illumination device structure controls the illuminance and color spectrum [cause by PCB 12, 14 and controller] (figures 1, 2 and 4-7, column 2 lines 40-66, column 4 lines 1-64).

Regarding claim 40, Vukosic discloses the illuminating device with an oriented structure (figure 1).

Regarding claim 41, Vukosic discloses group of light sources [LEDs 16, 18] (figures 1-2).

Regarding claims 42, Vukosic discloses multiple light sources [LEDs 16, 18] having their color and light intensity controlling (abstract, figures 1, 2 and 4-7).

Regarding claim 43, Vukosic discloses a means for sensing the changes [detector inputs GP0, GP1, GP3], and a means [controller 50] for changing the light emanating characteristics of the light sources [16, 18] (figures 1, 2 and 4-7, column 4 lines 30-60).

Regarding claim 44, Vukosic discloses a multiple light source illuminating device [see figure 1] having a plurality of light source [16, 18] with a color spectral distribution and intensity electrical and mechanical communication with a structure [14, 12, 17], the structure [12, 14, 17] including oriented geometry and surfaces (figures 1, 2 and 4-7, column 2 lines 40-66, column 4 lines 1-64).

Regarding claim 45, Vukosic discloses a power supply element [inherently connected from wires 20, 22, 24, 26] (figure 3).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vukosic in view of Lys et al. [US 6,340,868].

Regarding claim 46, Vukosic discloses a controller [50] to adjust light intensity (column 4 line 38-44); but Vukosic does not clearly disclose the controller being selected from the closed loop controller by use of a programming method.

Lys et al. discloses the controller being selected from the closed loop controller by use of a programming method for a current control of a LED lighting assembly (abstract, figures 1-2, column 4 lines 57-65, column 5 lines 3-5, column 6, lines 53-57, column 9 lines 45-55, column 16 lines 56-63).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the controller of Vukosic by the current controller as taught by Lys et al. to adjust light intensity and color for purpose of providing an advantageous way of more accuracy controlling current flow into LEDs.

Response to Amendment

9. Applicant's amendment with respect to new claims 36-49 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Byrne [US 5,561,346] and Conway et al. [US 6,149,283] disclose a LED lamp.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bao Q. Truong whose telephone number is (571) 272-2383. The examiner can normally be reached on Monday-Friday (8:00 AM - 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Bao Q. Truong
Examiner
Art Unit 2875



Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800